

HEIDI HEITKAMP

NORTH DAKOTA

HART SENATE BUILDING 110

WASHINGTON, DC 20510

PH: 202-224-2043

FAX: 202-224-7776

TOLL FREE: 1-800-223-4457

<http://www.heitkamp.senate.gov>

United States Senate

WASHINGTON, DC 20510

COMMITTEES:

AGRICULTURE, NUTRITION AND FORESTRY

BANKING, HOUSING AND
URBAN AFFAIRS

HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS

INDIAN AFFAIRS

SMALL BUSINESS AND ENTREPRENEURSHIP

March 13, 2018

The Honorable Elaine Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

Dear Secretary Chao,

I write to express my concerns with the new electronic logging device (ELD) rule being implemented by the U.S. Department of Transportation's (DOT) Federal Motor Carrier Safety Administration (FMCSA). Based on feedback I have received from my constituents, I am very concerned that this rule does not take into consideration the realities of transporting livestock, insects and perishable produce, and that it will affect recreational horse users that are not involved with the commercial trucking industry. DOT's one-size-fits-all approach fails to take into account the uniqueness of these industries, and I request you provide more clarity and exemptions to the rule to address these situations.

In North Dakota, ranchers and recreational rodeo enthusiasts alike depend on our nation's highways to move livestock to market and participate in rodeos across the region. As this rule has been implemented though, I have grown concerned about the lack of input agricultural and rural stakeholder groups have been able to provide during the rulemaking process, which has created considerable uncertainty in the application of the rule to these agricultural and recreational uses.

For example, folks who belong to the North Dakota Rodeo Association and similar organizations that haul horses for their hobby do not know if they are required to now have a commercial driver's license (CDL) and thus install an ELD. These individuals, who do not drive commercial trucks, are raising concerns they may need a CDL due to requirements such as the vehicle weight, trailer attachment and compensation provisions. These requirements are confusing and can be very costly for those who are competing or showing animals as a hobby. I ask that DOT provide a detailed list of exemptions that may pertain to professional and non-professional equestrians so those who have not been previously reporting hours of service know their compliance status when they go out on the road with their animals.

I have also heard concerns with the hauling of perishable items such potatoes. North Dakota ranks sixth nationally in potato production and our farmers take pride in making sure their products make it to processors around the country without losing quality. Our farmers are committed to delivering a high quality product and recognize the importance of delivering that product safely. It is important for the DOT to address the transport of perishable food, including incorporating appropriate exemptions.

BISMARCK OFFICE:
228 FEDERAL BUILDING
220 EAST ROSSER AVENUE
BISMARCK, ND 58501
PH: 701-258-4648
FAX: 701-258-1254

DICKINSON OFFICE:
40 1ST AVENUE WEST
SUITE 202
DICKINSON, ND 58601
PH: 701-225-0974
FAX: 701-225-3287

FARGO OFFICE:
306 FEDERAL BUILDING
657 SECOND AVENUE NORTH
FARGO, ND 58102
PH: 701-232-8030 - 1-800-223-4457
FAX: 701-232-6449

GRAND FORKS OFFICE:
33 S. 3RD ST., SUITE B
GRAND FORKS, ND 58201
PH: 701-775-9601
FAX: 701-746-1990

MINOT OFFICE:
105 FEDERAL BUILDING
100 FIRST STREET S.W.
MINOT, ND 58701
PH: 701-852-0703
FAX: 701-838-8196

Lastly, DOT needs to address the impacts of the rule on commercial livestock and insect haulers. Livestock and insect haulers are charged with the challenging task of ensuring motorist safety while protecting the welfare of the animals being transported. While some commercial operators without live cargo may have the ability to more easily transition from paper logbooks to ELDs, the pending mandate will have negative consequences on livestock and insect haulers and hinder the ability of this unique subset of the industry to humanely deliver healthy livestock. Being loaded into a trailer and traveling long distances are often the most stressful events in a livestock animal's life and it is impractical and inhumane to stop, offload multiples times, or significantly delay delivery of these animals. The unpredictability of loading livestock also makes it difficult to determine trip length times due to hours of service being recorded at the start of the engine opposed to when a driver leaves a facility and begins their trip. At a minimum, I support a delay in implementation of the rule for commercial motor vehicles transporting livestock or insects. The delay will give the FMCSA time to make necessary adjustments to hours of service rules that address trip start time and animal welfare concerns.

Thank you for your attention to these very important concerns, and I look forward to hearing from you on the steps DOT intends to take to address them.

Sincerely,

A handwritten signature in blue ink, reading "Heidi Heitkamp". The signature is stylized with a large, looped "H" and a long, sweeping underline.

Heidi Heitkamp
U.S. Senator